

**REMARKS**

Claims 1, 3, 8-11, 14-27, and 29-34 were pending in the application. Claims 14-18 and 33 have been withdrawn from examination. By this paper, claims 1, 26, and 29 have been amended, and claim 23 has been cancelled without prejudice or disclaimer. No claims have been added. Therefore, claims 1, 3, 8-11, 14-22, 24-27, and 29-34 remain pending and are being resubmitted for consideration.

**Interview**

Applicants thank Examiner Castellano for the telephone interview on October 20, 2010.

In accordance with 37 C.F.R. § 1.133, submitted herewith is a record of the substance of the telephonic interview on October 20, 2010, between Examiner Stephen Castellano and Jessica Cahill, regarding the above-captioned application. The statements set forth in the Examiner's Interview Summary mailed October 21, 2010 accurately reflect the substance of the interview. This statement is being submitted with the reply to the last Office Action and is therefore a timely response.

**Allowable Subject Matter**

Applicants appreciate the indication that claims 19-21, 25, and 34 are allowed.

Applicants also respectfully submit that claims 8-11 contain allowable subject matter if the 35 U.S.C. § 112 rejection is withdrawn. Applicants respectfully submit that the rejection under 35 U.S.C. § 112, first paragraph, should be withdrawn and that claims 8-11 contain allowable subject matter. At this time, claims 8-11 remain dependent from claim 1.

**Rejection under 35 U.S.C. § 112, first paragraph**

Claims 1, 3, 8-11, 22-24, 26-27, and 29-32 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. The rejection should be withdrawn for at least the following reason.

Claim 1 has been amended to state that “the inner structurally supporting wall element being an innermost wall element of the inner tank remote from a lower part of said innermost wall element.” Applicants appreciate the indication from Examiner Castellano during the telephone conference of October 20, 2010 that the amendment overcomes the 35 USC 112, first paragraph, rejection. Applicants respectfully request reconsideration and withdrawal of the rejection.

**Rejection under 35 U.S.C. § 102(b) – Bomhard**

Claims 1, 22-24, 26-27, 29, and 32 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,366,654 (“Bomhard”). The rejection should be withdrawn for at least the following reasons.

Amended independent claim 1 calls for a tank for storing cryogenic fluids that comprises, among other things (emphasis added): “an inner structurally supporting wall element made of **concrete**, the inner structurally supporting wall element being an **innermost wall element** of the inner tank remote from a lower part of said innermost wall element,” ... and “wherein the **fluid tight barrier is in direct contact with a concrete portion of the inner structurally supporting wall element**.”

Claims 22, 24, 26, 27, 29, and 32 depend from claim 1. Bomhard fails to teach or suggest such a tank for storing cryogenic fluids.

Bomhard teaches a tank 1 with an outer tank 2 and an inner tank 3. The inner tank 3 has an inner tank side wall 9. The tank further includes a vertical concrete ring 15, thermal insulation material 13, a metal liner 11, insulating liner 12, and an outer tank sidewall 4. *See* Bomhard at Fig. 2. The Examiner contends that inner tank side wall 9, concrete ring 14 and vertical concrete ring 15 correspond to the inner structurally supporting wall element made of concrete layers (concrete ring 14 and 15). *See* Final Office Action at p. 3. The Examiner further contends that the vertical portion of metal liner 11 corresponds to a fluid tight barrier. *See* Final Office Action at p. 3. However, Bomhard fails to teach or suggest each and every element for at least the following reasons.

First, Bomhard does not teach or suggest that the inner structurally supporting wall element is made of **concrete** and that the inner structurally supporting wall element is the **innermost wall element** remote from a lower portion of the innermost wall element as recited in the claims.. The inner tank side wall 9 is the innermost wall element in Bomhard. *See* Bomhard at Fig. 2. However, the inner tank side wall 9 is **not** made of concrete. The inner tank side wall 9 is made of *metal*. *See* Bomhard at col. 2, lines 66-67.

Second, Bomhard does not teach or suggest that the fluid tight barrier is in **direct contact** with a **concrete** portion of the inner structurally supporting wall element as recited in claim 1. The alleged fluid tight barrier (vertical portion of metal liner 11) is only in direct contact with the insulating liner 12 and the outer tank side wall 4. The insulating liner is **not** the inner structurally supporting wall element and is **not concrete**. The outer tank side wall is **not** an **inner** structurally supporting wall element. Thus, for at least these reasons, the rejection of claim 1 should be withdrawn. Applicants respectfully request reconsideration and withdrawal of the rejection.

Claims 22, 24, 26, 27, 29 and 32 depend from claim 1, and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in these dependent claims.

#### **Rejection under 35 U.S.C. § 102(b) – The British Reference**

Claims 1, 22-24, 26-27, 29 and 32 are rejected under 35 U.S.C. § 102(b) as being anticipated by British Reference No. 1341892 (“The British Reference”). The rejection should be withdrawn for at least the following reasons.

Amended independent claim 1 calls for a tank for storing cryogenic fluids that comprises, among other things (emphasis added), “wherein the **fluid tight barrier is in direct contact with a concrete portion of the inner structurally supporting wall element.**”

Claims 22, 24, 26, 27, 29, and 32 depend from claim 1. The British Reference fails to teach or suggest such a tank for storing cryogenic fluids.

The British Reference discloses a cryogenic storage structure that comprises an inner wall 30, steel liner 36, insulation 38, outer steel wall 40, massive concrete wall 46, insulation layer 48, and outer concrete wall 50. *See* The British Reference at Fig. 3. The Examiner contends that the inner wall 30, steel liner 36, and insulation 38 correspond to the inner structurally supporting wall element, and that the steel wall 40 corresponds to a fluid tight barrier. *See* Final Office Action at p. 4.

However, the British Reference clearly fails to teach that the alleged fluid tight barrier (steel wall 40) is in direct contact with a *concrete* portion of the alleged *inner* structurally supporting wall element (inner wall 30, steel liner 36, and insulation 38). Figure 3 of the British Reference shows that the steel wall 40 is in direct contact with the insulation 38 and the massive concrete wall 46. The insulation 38 is not *concrete*. *See* The British Reference at p. 2, lines 40-48. The massive concrete wall 46 is not an inner structurally supporting wall element. *See* The British Reference at Fig. 3. To the contrary, the Office Action states that the massive concrete wall 46 is part of the outer structural supporting wall element. *See* Final Office Action at p. 4. Therefore, the rejection of claim 1 should be withdrawn.

Claims 22, 24, 26, 27, 29 and 32 depend from claim 1, and are allowable therewith, for at least the reasons set forth above, without regard to the further patentable subject matter set forth in these dependent claims.

#### **Rejection under 35 U.S.C. § 103(a) – Bomhard & Closner**

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Bomhard in view of U.S. Patent No. 3,926,134 (“Closner”). The rejection should be withdrawn for at least the following reasons.

Claim 3 depends from claim 1. As discussed above, Bomhard fails to teach or suggest each and every element of claim 1. Closner fails to cure the deficiencies of Bomhard.

Even assuming for the sake of the argument that one of ordinary skill in the art would have been motivated to modify Bomhard to include a multi-axially prestressed concrete wall as allegedly taught by Closner, the resulting modification would still fail to teach or suggest a

tank that comprises, among other things, “*an inner structurally supporting wall element made of concrete, the inner structurally supporting wall element being an innermost wall element of the inner tank remote from a lower part of said innermost wall element,*” ... and “*wherein the fluid tight barrier is in direct contact with a concrete portion of the inner structurally supporting wall element,*” as called for in claim 1. Thus, the rejection of claim 3 under 35 U.S.C. § 103 is improper. Reconsideration and withdrawal of the rejection are respectfully requested.

**Rejection under 35 U.S.C. § 103(a) – Bomhard & Yamamoto**

Claims 30 and 31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bomhard in view of U.S. Patent No. 3,595,423 (“Yamamoto”). The rejection should be withdrawn for at least the following reasons.

Claims 30 and 31 depend from claim 1. As previously stated, Bomhard fails to teach or suggest each and every element recited in claim 1. Yamamoto fails to cure the deficiencies of Bomhard.

Even assuming for the sake of the argument that one of ordinary skill in the art would have been motivated to modify Bomhard to include an outer tank and insulation as allegedly taught by Yamamoto, the resulting modification would still fail to teach or suggest a tank that comprises, among other things, “*wherein the fluid tight barrier is in direct contact with a concrete portion of the inner structurally supporting wall element,*” as called for in claim 1. Thus, the rejection of claims 30 and 31 should be withdrawn. Applicants respectfully request reconsideration and withdrawal of the rejection.

**Conclusion**

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application, as amended, is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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